

REMARKS/ARGUMENTS***Claim Objections***

Claim 15 has been amended to correct the objection to this claim.

Claim Rejections – 35 U.S.C. § 112

The Office Action stated that claims 10 – 14 and 18 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The Office Action alleged that in claim 10, lines 5 and 7, the platform removably mounted on the spine member and the flexible cover, respectively, are considered new matter as well as the “flexible cover” in claim 18, line 3.

Please note in paragraph [0095], there is a specific reference to a flexible cover supported by flexible poles, similar to the cover 1630 and poles 1640 that can be used as well to cover equipment and cargo secured to the platform 2310. Also, in paragraph [0020] “Other embodiments also include a spine member having a flexible cover attached to cover the equipment.”

Please note in paragraph [0019], “For example, a platform can be attached to the spine member for carrying cargo.” Also, in the last sentence of paragraph [0096], “Also, a cargo platform 2510 can also be mounted on the spine member.”

Clearly there is adequate support with the written description requirement, since the claim language is virtually verbatim from the written description.

The rejection of claim 20 under 35 U.S.C. 112, second paragraph has been rendered moot due to the cancellation of that claim.

Claim rejections – 35 USC §102

Claims 15 – 17 and 19 were rejected under 35 U.S.C. 102(b) as anticipated by Janek. Janek was cited as disclosing a spine member 84; a pin for securing the spine member to a hitch receiver, equipment mounting hardware including at least one elongated member 86 having a C shaped channel mountable to the spine member to the same degree claimed; attachment devices 39 for securing the equipment mounting hardware to the spine member; and an enclosed cargo box or platform 40 mountable on the spine member.

The C shaped channel 86 is used to slide over the spine member. It does not have an inverted rim, nor does it include a mounting mechanism that engages the inverted rim to secure the equipment mounting hardware to the C shaped channel. Additionally, there is no removable platform nor is there any flexible cover disclosed by this reference. Thus, this reference does not anticipate the claims as presently amended.

Claims 15, 17 and 20 were also rejected as being anticipated by Johnson. Johnson was cited as disclosing a carrier having a spine member 16, a pin 18, equipment mounting hardware having at one elongated member having a C shaped channel mountable to the spine member; attachment devices for securing the hardware to the spine member and a platform mountable on the spine member.

The C shaped channel member of Johnson does not include an inverted lip upon which the mounting hardware can engage. Additionally, the device of Johnson does not include a cover of any sort. Thus this reference fails to anticipate the claimed invention.

Claim Rejections – 35 USC §103

Claim 18 was rejected under 35 USC 103(a) as being unpatentable over Johnson. The Office Action relied upon Official Notice by the examiner that flexible covers on carriers would be within the level of ordinary skill in the art. No documentary evidence was presented to support this assertion. The technical line of reasoning for this assertion is that “the use of flexible covers on carriers for their use in carrier and container art and the selection of these known equivalent to protect the content of objects secured on a platform would be within the level of ordinary skill in the art.

In accordance with MPEP 2144.03, Official Notice is only permissible in rare circumstances. This is not such a case. If, as the examiner asserts, flexible covers are obvious, then why are they not shown in the cited prior art? Secondly, the use of these covers on a platform that is mounted on a spine member behind a vehicle is even less obvious. The applicant traverses the assertion of the obviousness of the use of flexible covers on platforms mounted on spine members behind a vehicle.

Further, the Johnson references is concerned with the mounting of bicycles on a carrier behind a vehicle. Nowhere in Johnson is it disclosed, suggested or otherwise taught that there is motivation to provide a cover, flexible or otherwise, on the carrier of Johnson. The only

teaching is that of the applicant. Thus, it would not have been properly obvious under the patent laws of the United States to add a flexible cover to the reference of Johnson to arrive at the presently claimed invention.

Applicant respectfully requests consideration of claims 10 – 13, 15 – 19, 21 and 22 in view of the above remarks. These claims are believed to be in condition for allowance. Applicant respectfully request that a timely Notice of Allowance be issued in this case.

The Examiner is respectfully requested to telephone the undersigned if further discussions would advance the prosecution of this application.

Respectfully submitted,

Date: 5/14/2004

By: 

Glenn L. Webb, Reg. No. 32,668
P.O. Box 951
Conifer, CO 80433
(303) 838-8610
(303) 534-5039 facsimile